



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
HARRISBURG, PENNSYLVANIA
17128-1100

THE SECRETARY

(717) 783-3680

February 23, 2022

Honorable Stan Saylor
Majority Appropriations Chairman
House of Representatives
245 Main Capitol
Harrisburg, PA 17120

Honorable Matthew Bradford
Minority Appropriations Chairman
House of Representatives
512E Main Capitol
Harrisburg, PA 17120

Dear Chairmen:

Thank you for the opportunity to testify before the House Appropriations Committee on Tuesday, February 15, 2022. During the course of the hearing, questions were raised by committee members requiring follow-up after our testimony. This letter is in response to those member questions.

Throughout the course of the department's hearing, several committee members sought further details on the budget revenue estimates as compared to those provided by the Independent Fiscal Office (IFO). To further elaborate on the information discussed at the hearing, we are providing additional data on the employment forecast and sales tax (SUT) growth.

Pennsylvania Jobs

During the IFO's testimony, a question was raised about IHS Markit's (IHS) forecast of job growth in 2022. IHS is estimating 214,000 additional jobs in 2022, while the IFO is estimating a gain of 80,000 (per IFO testimony on February 15th to the House Appropriations Committee).

The department's forecast for personal income and wage growth are based on IHS's standard forecast. While the department does not directly use PA employment, it is helpful to see where IHS believes the 2022 job growth will come from. That job growth does fuel other variables (PA wages and salaries, PA personal income) that the department does use in the tax models.

The table enclosed as attachment A show's PA employment sorted by the industries expected to add the most jobs in 2022. As can be seen in the table, the majority of the industries expected to gain the most jobs in 2022 lost the most jobs in 2020. These industries are also those where IHS believes consumers will spend increasing amounts of money in 2022 (food services, accommodation, recreation).

However, the expected strong job growth in 2022 does not fully reverse the loss of employment that has occurred since 2019. In total, that is not expected to occur until 2024.

Prior to the pandemic, Pennsylvania employment in 2019 was 6.066 million jobs. In 2020 that fell by 462,000 jobs to 5.604 million. For year 2021, which was still strongly impacted by the pandemic, an additional 111,000 jobs were gained as industries began to recover.

For 2022, the largest job growth, in terms of additional jobs, is from the Accommodation and Food Services industry. This sector is projected to add 38,000 jobs, which is stronger than in 2021, as the pandemic wanes into an endemic, more people are expected to dine out and travel.

The Health Care and Social Assistance sector has the second strongest growth at 29,000 additional jobs, which is still short of the 2019 figures by 12,000 jobs. Of all the industries only a few (Transportation and Warehousing, Professional, Scientific and Technical Services) have higher employment figures than prior to the pandemic.

As a result, the IHS forecast is for a continuation of the currently strong recovery by regaining many of the jobs that were lost during the pandemic over the next 2-3 years.

Sales Tax Revenue

For the budget years (FY 2021-22 and 2022-23), the single largest difference between the department and IFO forecasts is Non-Motor Vehicle Sales & Use Tax (NMV) revenue.

	FY 2021-22	FY 2022-23	GROWTH
DOR	11,856.3	12,195.3	2.9%
IFO	11,668.0	11,300.0	-3.2%
DIFFERENCE	188.3	895.3	

The department's NMV forecast is based on the following data from IHS Markit:

FY 2022-23 Growth Rates

PA personal income: 4.6%

US consumption durables (less MV): -3.3%

US consumption food/accommodations: 10.6%

The negative growth rate for durables is offset by a continued rebound in consumption of food services and accommodations. The relatively strong growth rate in PA personal income also contributes to the department's growth rate.

The IFO figure on the other hand, is the worst single-year cash decline in non-motor sales tax revenue in at least the last twenty years – even worse than the so-called “Great Recession” years of 2008-2009.

It is important to note that both the department and the IFO are predicting a significant slowdown in non-motor vehicle sales tax growth, from the 16.2% we saw in 2020-21 and the expected rate of 7.9% for 2021-22. The department is using the IHS data standard forecast to predict the sales tax.

Sector Analysis

There was a significant amount of discussion on the amount of sales tax from different sectors, most notably durable goods and food services/accommodations. To provide clarity on this issue, the department created a sector based NMV forecast by detailed industry types. Our forecast groups together those that sell primarily durable goods, nondurable goods, some mixture of both, food and accommodations, or other taxable items or services. The table below shows the share of total NMV SUT from entities in these sectors along with their forecast growth in 2022-23:

	SHARE OF TOTAL	GROWTH
	2020-21	2022-23
NON-DURABLE	9%	2.0%
DURABLE	7%	-0.7%
MIX	38%	-0.1%
FOOD/ACCOM	9%	10.3%
OTHER	37%	3.9%
TOTAL	100%	2.9%

As can be seen above, retailers selling only durable goods make up only 7% of the SUT base. The majority of retailers sell both durable and non-durable goods (shown as MIX above).

All three of the retail trade sectors (NON-DURABLE, DURABLE, and MIX) have weak growth for next fiscal year. The combined growth rate for all three is +0.2%.

The food service and accommodations sector comprise approximately 9% of the NMV base. Growth in that sector is expected to be more than 10% in 2022-23. This is consistent with IHS data.

The “OTHER” category, within the table above, makes up approximately 37% of the NMV base. This is a catchall category that contains remittances from industries such as information (telephone services), construction, utilities, and manufacturing. Fiscal year 2022-23 growth in this category is expected to be 3.9%.

These last two categories (food service/accommodations and other) combine for 46% of the NMV tax base, and are forecast to increase by a combined 5.2% in 2022-23, offsetting the weakness in durable goods to some extent, and supporting the forecast of 2.9% growth in total NMV sales tax revenue.

Individual Member Inquiries:

Representative Lawrence requested further clarification on the information provided on page A1-19 of the Governor’s Budget Book, specifically seeking clarification on the economic outlook statistic that Personal Income Tax (PIT) would rise 3.6% (found within the written paragraph) while the economic indicators table provides a different growth statistic.

The department appreciates Rep. Lawrence’s inquiry and upon further research, agree there is clarification needed for page A1-19. Page A1-19 of the Governor’s Budget Book contains IHS Markit economic indicators from their December 2021 update. The paragraph above the economic indicators table specifies an average annual growth rate over the forecast period, while the table provides annual growth rates for each calendar year. The paragraph on page A1-19 contains the below sentence (the time frame is 2020 to 2025):

- Personal income will rise 3.6%, compared with 4.2% for the country.

The rate of 3.6% in the sentence is incorrect and the proper growth rate is 4.2%. IHS Markit has acknowledged that the error appeared in their publication. It is further important to note that the incorrect figure in this sentence was not used in any model and the data in the tables are correct.

It is also important to note that the growth of total Pennsylvania Personal Income is irrelevant for the forecasting of withholding. The department does not directly use Personal Income growth in our forecasting models. Our PIT Withholding model uses PA wages along with seasonal and other adjustments. The average annual growth rate for PA wages over the period is 6.2%.

Our non-withheld PIT model (used to forecast PIT Quarterly and Annual payments), uses components of personal income (interest, dividends, rent, proprietors’ income) for forecasting purposes. Again, the correct figures from IHS Markit were used in this forecast.

The average annual growth for total personal income is pulled down because of transfer payments, which includes the stimulus checks sent in 2020 and 2021. Because those are in 2020 and not 2025, they have the effect of reducing overall personal income growth. The loss of these transfer payments does not affect our personal income tax forecasts because the checks were not taxable.

Representative Wheeland asked the department to provide a breakdown of the Lottery’s categorization of retailers over the past ten years. The below chart provides a categorization of retailers by terminal (equipment) setup from 2013 to present. The Lottery has two main types of equipment, WAVE terminals and ticket vending machines. The WAVE terminal is the equipment at the counter operated by retailers, ticket vending machines are self-service customer equipment located within the retailer location, and route based sales are locations where PA Lottery retailer sales agents handle the administration of Lottery vending machines rather than retailer staff. An example of the WAVE terminal is enclosed as attachment B.

Retailers by Terminal Setup, % of Total per Year

Retailer Category	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Wave Only	72%	71%	70%	67%	66%	63%	60%	58%	55%	55%
Vending Only	9%	9%	9%	12%	12%	13%	14%	14%	15%	16%
Wave and Vending	19%	20%	21%	21%	22%	25%	26%	27%	28%	27%
Route Based Sales	0%	0%	0%	0%	0%	0%	0%	1%	2%	2%
Grand Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Representative Fritz requested the department share its aggregate survey data collect from customer service interactions. Enclosed as attachment C, please find a compilation of customer experience ratings from January 2022, which consolidates survey results from PATH, the Department of Revenue website, and the department’s call center.

Representative Cephas inquired as to how many students the department projects would benefit as a result of the change in policy regarding student loan debt forgiveness. Using Public Student Loan Forgiveness (PSLF) data, the department estimates that around 700 Pennsylvanians may be benefitting from that program annually. The estimated average PIT savings is around \$2,600. These figures are expected to increase, as the U.S. Department of Education has recently announced an initiative to strengthen the PSLF program. Other student/nursing loan forgiveness programs may benefit even more residents. The Pennsylvania Higher Education Assistance Agency would have further data on the current count of applicants to the Student Loan Relief for Nurses Program and future beneficiaries of the program due to the recent General Assembly appropriation to expand the program.

Representative Greiner requested the department provide Governor Wolf’s Corporate Net Income Tax Modernization legislative proposal when available. Enclosed as attachment D is the Pennsylvania Legislative Reference Bureau draft, D07756, of the Governor’s proposal. Representative Mary Jo Daley and Senator Steven Santarsiero have also circulated co-sponsorship memos within their respective chambers.

Representative Owlett requested further information on the number of department employees who have taken advantage of the five-day COVID-19 vaccination leave. As of February 10, 2022, 1,258 Revenue employees have verified their vaccination status. Of those, 181 employees used the five-day vaccination leave, versus 1,077 employees who have a remaining leave balance. It is important to note that employees have until February 18 to verify their vaccination status, thus earning the leave, and they have until March 31, 2022 to use the leave. The employees who have not utilized the vaccination leave by that time will receive a pay-out for their remaining balance.

Representative Guzman inquired about the department's efforts to translate content on myPATH into Spanish. Upon visiting the myPATH website, taxpayers will see a link under the “Individuals” section titled, “[Presentar una declaración de impuestos sobre la renta personal de PA para 2021](#)”. By clicking this link, taxpayers can file their State personal income taxes using Spanish instructions.

Representative Mako asked how many Property Tax/Rent Rebate claims have been filed using myPATH. While the department provided an approximate number during the hearing, we wanted to provide exact numbers. For claim year 2020, the department received a total of 477,537 PTRR claims, of which 35,560 were submitted online via myPATH.

House Aging and Older Adult Services Committee Democratic Chairman Samuelson requested an updated complement number of employees funded using Lottery Funds. As of February 14, 2022, there were 59 filled positions out of 78 authorized positions. The chairman further inquired if the department could provide statistics showing the number of PTRR claims processed by the department over the last ten years, which would highlight annual decline due to rising incomes. Claims paid by the department since claim year 2010 are below.

Property Tax/Rent Rebate Program Relief

Claim Year	Total Rebates Paid	Total Rebate \$
2020	432,284	\$208.6 million*
2019	466,637	\$222.5 million
2018	508,238	\$243.6 million
2017	531,995	\$255.1 million
2016	547,994	\$262.3 million
2015	559,025	\$266.7 million
2014	567,280	\$270.9 million
2013	580,729	\$277.2 million
2012	589,135	\$280.0 million
2011	598,075	\$283.7 million
2010	604,379	\$284.4 million

**preliminary data*

House Aging and Older Adult Services Committee Majority Chairman Day inquired why Governor Wolf has proposed eliminating the Lottery profit margin. To provide general clarity, the profit margin is not the same as the PA Lottery’s operational expenditure margin. The Lottery operates on an expenditure margin of approximately 2-2.5%. The profit margin relates to the money returned to the commonwealth, through the Lottery Fund, after prizes and expenditures are paid.

From inception, the Lottery has been constrained by an artificial profit margin. Over the last several decades, the General Assembly has worked to provide incremental relief from the mandated profit margin. In Act 53 of 2008, the General Assembly first granted the Lottery

temporary relief from the mandated 30 percent minimum return that had been in place since the Lottery's inception. Through Act 53, the Lottery was given the latitude to return a minimum of 27 percent through fiscal year 2010-11. Act 23 of 2011 extended the 27 percent minimum return through fiscal year 2014-15. Act 201 of 2014 set the minimum return percentage at 25 percent starting with the fiscal year 2014-15.

Since the passage of Act 97 of 2019, the Pennsylvania Lottery has been required to return 20 percent in net profits for programs that benefit older Pennsylvanians. Using the reduction of the minimum rate of return, the Lottery is able to execute a diverse product portfolio to maximize profits for senior programs. Even as the mandated rate of return has dropped, Lottery sales and profits have increased.

Having a mandated rate of return prevents the Lottery from offering the higher price point tickets that players want to buy. The Pa Lottery and the lottery industry as a whole is experiencing significant growth from players gravitating toward Scratch-Off tickets, particularly higher price point Scratch-Offs. These are Scratch-Off tickets with purchase prices of \$5, \$10, \$20, \$30 and \$50.

Because of their higher prize payout, higher price point Scratch-Off tickets have a lower profit margin, but, because of their high sales volume, generate more profit dollars. Despite having the lowest profit percentages of all the Lottery's traditional games, upper price point Scratch-Offs are among the lottery's most profitable products in terms of dollars for the Lottery Fund. Higher price point Scratch-Off tickets bring in more money to the Lottery which means more dollars available to vital senior programs.

That's why it's imperative that the outdated mandated rate of return be eliminated to allow the Lottery to generate more profit dollars – rather than adhering to an artificial percentage that could in fact constrain Lottery sales growth. Put another way, would you rather have 25% of \$100 or 20% of \$1,000? In the end, the higher volume of sales equates to more money returned to the vital senior programs that our older residents count on.

The Lottery strategically sets the game payouts based on the statutorily mandated rate of return months in advance. By eliminating the mandated rate of return now, it provides the Lottery with the ability to prepare the future game portfolio to maximize profits for older Pennsylvanians.

The table below shows the previous ten fiscal years of total sales, total profit returned for seniors, the margin rate (profits/sales), and the mandated rate by law. As the mandated rate of return dropped, Lottery sales increased, and the profits increased.

Fiscal Year	Traditional Sales	Traditional Net Revenue	Traditional Net Revenue %	Mandated Rate by Law
2011-12	\$3,480,900,689	\$1,060,891,546	30.48%	27%
2012-13	\$3,699,665,694	\$1,067,376,665	28.85%	27%
2013-14	\$3,799,568,494	\$1,081,499,159	28.46%	27%
2014-15	\$3,819,642,911	\$1,060,861,471	27.77%	25%
2015-16	\$4,135,164,810	\$1,120,389,714	27.09%	25%
2016-17	\$4,001,035,373	\$1,044,468,285	26.10%	25%
2017-18	\$4,200,564,760	\$1,093,646,000	26.04%	25%
2018-19	\$4,503,328,687	\$1,132,918,217	25.16%	25%
2019-20	\$4,469,473,516	\$1,100,940,792	24.57%	20%
2020-21	\$5,302,468,750	\$1,239,787,627	23.38%	20%

Additional informational handouts on the profit margin mandate are enclosed as attachment E.

Chairman Day further requested information on the cost savings incurred by the department as the result of employees teleworking. The department has realized a total recurring annual savings of \$447,000 due to field office consolidations, which is a 0.6% savings when considered within the current FY GGO operating budget of \$69.428 million. It is important to note that these savings reflect only the savings realized from field offices closed to date. Over time, the department will likely realize additional cost savings due to teleworking such as reduced phone lines, other office equipment, and supply reductions. Teleworking will also likely create cost savings opportunities by reducing the need for Capitol Complex office space and parking. The Department of General Services is undertaking that analysis, however more time is needed to stabilize telework schedules before finalizing long-term decisions. Furthermore, in addition to cost savings, the department has realized teleworking benefits such as heightened competitiveness in a tough labor market, continuity of operations, and increased productivity.

Representative Amen Brown asked what percentage of PIT revenue is collected from the County of Philadelphia, whether the current percentage reflects an increase or decrease from the prior fiscal year, and, if a decrease, what factors contributed to that decrease. During the hearing, the department approximated the county's percentage to be 11%. Based on the return data, the county's percentage has not decreased. The below chart provides data from tax years 2016 – 2018. Please note finalization of tax year 2019 is still in progress.

COUNTY	2018 TAXABLE INCOME		2017 TAXABLE INCOME		2016 TAXABLE INCOME	
	RETURNS	AMOUNTS	RETURNS	AMOUNTS	RETURNS	AMOUNTS
TOTAL-ALL RETURNS	6,191,772	\$417,664,145	6,115,478	\$395,768,629	6,011,031	\$372,576,317
OUT-OF-STATE	483,969	\$29,172,454	466,257	\$27,254,550	440,302	\$24,104,727
PENNSYLVANIA	5,707,803	\$388,491,691	5,649,221	\$368,514,079	5,570,729	\$348,471,590
PHILADELPHIA	587,418	\$31,973,231	575,966	\$29,722,517	557,393	\$27,740,790
PERCENT OF PA	10.3%	8.2%	10.2%	8.1%	10.0%	8.0%
PERCENT OF TOTAL	9.5%	7.7%	9.4%	7.5%	9.3%	7.4%

I hope that you find this information to be helpful. If you or any of the committee members have further questions or need additional information, please feel free to contact our Legislative Director Andrew Moser at 717-783-4024.

Sincerely,

A handwritten signature in cursive script that reads "C. Daniel Hassell".

C. Daniel Hassell
Secretary of Revenue

Enclosures

Pennsylvania Employment by Major Industry Group 2018-2022, in Thousands

	EMPLOYMENT					CHANGE			
	2018	2019	2020	2021	2022	2020	2021	2022	3-Year Total
Accommodation and Food Services	474	477	357	390	428	-120	32	38	-49
Health Care and Social Assistance	1,037	1,059	1,019	1,018	1,047	-40	-1	29	-12
Professional, Scientific, and Technical Services	354	361	355	368	390	-6	13	21	28
Transportation and Warehousing	267	277	272	287	307	-5	14	20	30
Administrative and Support Services	315	319	279	275	295	-40	-4	20	-24
Other Services	260	262	223	234	253	-39	11	19	-9
State & Local Government	606	608	584	577	594	-25	-7	17	-15
Educational Services	238	237	218	224	237	-19	6	13	0
Arts, Entertainment, and Recreation	98	101	67	74	86	-34	7	12	-15
Finance and Insurance	261	265	264	262	272	-2	-2	10	7
All Other Industries	2,099	2,099	1,966	2,006	2,020	-133	40	15	-79
TOTAL NONFARM EMPLOYMENT	6,010	6,066	5,604	5,715	5,929	-462	111	214	-137

Source: IHS December 21 Standard forecast

The WAVE Terminal & Peripherals



Document Scanner

The document scanner is attached to the terminal and reads:

- Playslips for Pennsylvania Lottery draw games
- Draw game/Fast Play tickets generated by any Pennsylvania Lottery terminal
- Vouchers produced from the PlayCentral Terminals

Barcode Reader

The wireless barcode reader is located on the printer housing and reads:

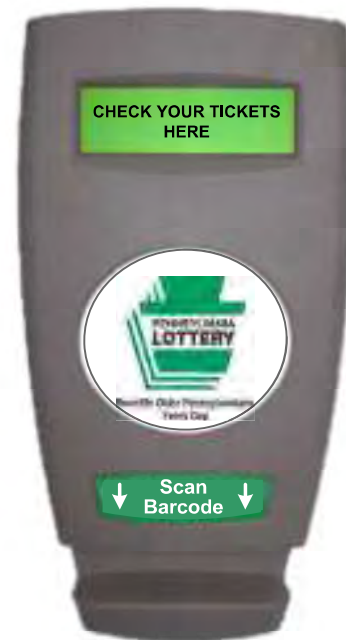
- Scratch-Off Ticket barcodes
- Draw Ticket barcodes
- Coupons
- Vouchers
- Driver's licenses (for age verification)
- PA Lottery Gift Cards

The barcode reader must stay in the cradle of the terminal it is assigned

to. Also, the barcode reader is battery operated. When not in use, place the barcode reader back in the cradle to charge.

Wireless Ticket Checker

When a player scans the barcode on a draw game, Fast Play or Scratch-Off ticket, the ticket checker will confirm if the ticket is a winning ticket and how much the prize is worth.



Transaction Display Unit

The Transaction Display Unit displays financial transactions and calculated totals to your players.



The Flat Panel Monitor and Monitors

The Flat Panel Monitor displays the Lottery In Motion (LIM) files.



The Lottery In Motion files display Pennsylvania Lottery advertisements, messages, jackpot amounts for draw games and Amber alerts.

The Verifone Debit Pinpad



The Verifone Debit Pinpad (**if equipped**) is connected to the WAVE terminal and allows customers at select locations to pay for lottery using debit cards.

Note:

Customer survey data from January 2022 responses.

Score Key				
Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied
80% - 100%	70% - 79%	50% - 69%	35% - 49%	0% - 34%

January 2022 Customer Experience Ratings										
OVERALL TOTAL SCORE >		Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	# of Responses	Total Score	Max Score	% Score
		16675	2544	1278	560	1016	5693	22073	28465	78%
Customer Feedback Survey: Interaction with DOR Employee		Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	# of Responses	Total Score	Max Score	% Score
I was treated with courtesy and respect.	Results:	2	1	2	2	10	17	34	85	40%
	Total Score:	10	4	6	4	10				
	%	12%	6%	12%	12%	59%				
I received assistance in a timely manner.	Results:	1	1	2	0	14	18	29	90	32%
	Total Score:	5	4	6	0	14				
	%	6%	6%	11%	0%	78%				
I was provided clear and useful information.	Results:	1	0	2	1	13	17	26	85	31%
	Total Score:	5	0	6	2	13				
	%	6%	0%	12%	6%	76%				
Subtotal		20	8	18	6	37	52	89	260	34%
Customer Feedback Survey: DOR Website		Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	# of Responses	Total Score	Max Score	% Score
I was able to find what I needed easily.	Results:	5	0	0	1	12	18	39	90	43%
	Total Score:	25	0	0	2	12				
	%	28%	0%	0%	6%	67%				
I am satisfied with the availability of the content on the website.	Results:	4	0	1	1	11	17	36	85	42%
	Total Score:	20	0	3	2	11				
	%	24%	0%	6%	6%	65%				
Subtotal		45	0	3	4	23	35	75	175	43%

Customer Feedback Survey: Correspondence		Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	# of Responses	Total Score	Max Score	% Score
I easily understood the information contained in the correspondence.	Results:	2	0	0	0	0	2	10	10	100%
	Total Score:	10	0	0	0	0				
	%	100%	0%	0%	0%	0%				
It was not necessary to contact the department after receiving the correspondence.	Results:	0	0	0	0	2	2	2	10	20%
	Total Score:	0	0	0	0	2				
	%	0%	0%	0%	0%	100%				
What was required of me was clearly identified in the correspondence.	Results:	2	0	0	0	0	2	10	10	100%
	Total Score:	10	0	0	0	0				
	%	100%	0%	0%	0%	0%				
Subtotal		20	0	0	0	2	6	22	30	73%

CEC Calls		Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	# of Responses	Total Score	Max Score	% Score
CEC One Question Survey	Results:	631	116	119	136	484	1486	4732	7430	64%
	Total Score:	3155	464	357	272	484				
	%	42%	8%	8%	9%	33%				

myPATH		Highly Satisfied	Satisfied	Neutral	Dissatisfied	Highly Dissatisfied	# of Responses	Total Score	Max Score	% Score
myPATH One Question Survey	Results:	2687	518	300	139	470	4114	17155	20570	83%
	Total Score:	13435	2072	900	278	470				
	%	65%	13%	7%	3%	11%				

2022D07756

07756DMS:EJH 02/11/22 #72

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in corporate net income tax, further providing
11 for definitions and for imposition of tax.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 401(3)1(t) and 2(a)(17) and (9) of the
15 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
16 of 1971, are amended, clause (3)2(a) is amended by adding a
17 phrase and the section is amended by adding a clause to read:

18 Section 401. Definitions.--The following words, terms, and
19 phrases, when used in this article, shall have the meaning
20 ascribed to them in this section, except where the context
21 clearly indicates a different meaning:

22 * * *

1 (3) "Taxable income." 1. * * *

2 (t) (1) Except as provided in paragraph (2), (3) [or], (4)
3 [for taxable years beginning after December 31, 2014] or (5),
4 and in addition to any authority the department has [on the
5 effective date of this paragraph] for taxable years beginning
6 after December 31, 2014, to deny a deduction related to a
7 fraudulent or sham transaction, no deduction shall be allowed
8 for management fees, an intangible expense or cost, or an
9 interest expense or cost, paid, accrued or incurred directly or
10 indirectly in connection with one or more transactions with an
11 affiliated entity. In calculating taxable income under this
12 paragraph, when the taxpayer is engaged in one or more
13 transactions with an affiliated entity that was subject to tax
14 in this Commonwealth or another state or possession of the
15 United States on a tax base that included the management fees,
16 intangible expense or cost, or the interest expense or cost,
17 paid, accrued or incurred by the taxpayer, the taxpayer shall
18 receive a credit against tax due in this Commonwealth in an
19 amount equal to the apportionment factor of the taxpayer in this
20 Commonwealth multiplied by the greater of the following:

21 (A) the tax liability of the affiliated entity with respect
22 to the portion of its income representing the management fees,
23 intangible expense or cost, or the interest expense or cost,
24 paid, accrued or incurred by the taxpayer; or

25 (B) the tax liability that would have been paid by the
26 affiliated entity under subparagraph (A) if that tax liability
27 had not been offset by a credit.

28 The credit issued under this paragraph shall not exceed the
29 taxpayer's liability in this Commonwealth attributable to the
30 net income taxed as a result of the adjustment required by this

1 paragraph.

2 (2) The adjustment required by paragraph (1) shall not apply
3 [to a transaction that did not have as the principal purpose the
4 avoidance of tax due under this article and was done at arm's
5 length rates and terms.] where the taxpayer establishes, as
6 determined by the Secretary of Revenue, that the adjustment is
7 unreasonable.

8 (3) The adjustment required by paragraph (1) shall not apply
9 to a transaction between a taxpayer and an affiliated entity
10 domiciled in a foreign nation which has in force a comprehensive
11 income tax treaty with the United States [providing] where the
12 affiliated entity is subject to tax in the foreign nation, at a
13 rate that equals or exceeds the rate set in section 402(b), on a
14 tax base that includes the management fees, intangible expense
15 or cost, or the interest expense or cost paid, accrued or
16 incurred by the taxpayer. The comprehensive income tax treaty
17 must provide for the allocation of all categories of income
18 subject to taxation, or the withholding of tax, on royalties,
19 licenses, fees and interest for the prevention of double
20 taxation of the respective nations' residents and the sharing of
21 information.

22 (4) The adjustment required by paragraph (1) shall not apply
23 to a transaction where an affiliated entity directly or
24 indirectly paid, accrued or incurred a payment to a person who
25 is not an affiliated entity, if the payment is paid, accrued or
26 incurred on the intangible expense or cost, or interest expense
27 or cost, and is equal to or less than the taxpayer's
28 proportional share of the transaction. The taxpayer's
29 proportional share shall be based on relative sales, assets,
30 liabilities or another reasonable method.

1 (5) The adjustment required under paragraph (1) shall not
2 apply to a transaction where the affiliated entity derives at
3 least one-third of its sales from entities that are not
4 affiliated entities and the transaction giving rise to the
5 adjustment was done at arm's length rates and terms.

6 2. In case the entire business of any corporation, other
7 than a corporation engaged in doing business as a regulated
8 investment company as defined by the Internal Revenue Code of
9 1986, is not transacted within this Commonwealth, the tax
10 imposed by this article shall be based upon such portion of the
11 taxable income of such corporation for the fiscal or calendar
12 year, as defined in subclause 1 hereof, and may be determined as
13 follows:

14 (a) Division of Income.

15 * * *

16 (17) Sales, other than sales under paragraphs (16) and
17 (16.1), are in this State [if:

18 (A) The income-producing activity is performed in this
19 State; or

20 (B) The income-producing activity is performed both in and
21 outside this State and a greater proportion of the income-
22 producing activity is performed in this State than in any other
23 state, based on costs of performance.] as follows:

24 (C) Gross receipts from the lease or license of intangible
25 property, including a sale or exchange of property where the
26 receipts from the sale or exchange derive from payments that are
27 contingent on the productivity, use or disposition of the
28 property, if and to the extent the property is used in this
29 State.

30 (D) Gross receipts from the sale of intangible property

1 where the holder property sold is a contract right, government
2 license or similar property that authorizes the holder to
3 conduct a business activity in a specific geographic area, if
4 and to the extent the property is used in or otherwise
5 associated with this State.

6 (E) Gross receipts from the sale, redemption, maturity or
7 exchange of securities, held by the taxpayer primarily for sale
8 to customers in the ordinary course of its trade or business, if
9 the customers are in this State.

10 (F) Gross receipts received from interest, fees and
11 penalties imposed in connection with loans secured by real
12 property, if the property is located within this State.

13 (G) Gross receipts received from interest, fees and
14 penalties imposed in connection with loans related to the sale
15 of tangible personal property, if the property is delivered or
16 shipped to a purchaser in this State.

17 (H) Gross receipts received from interest, fees and
18 penalties imposed in connection with loans not described in
19 subparagraph (F) or (G), if the borrower is located in this
20 State.

21 (I) Gross receipts received from interest, fees and
22 penalties in the nature of interest from credit card receivables
23 and receipts from fees charged to cardholders, such as annual
24 fees, if the billing address of the cardholder is in this State.

25 (J) Gross receipts received from intangible property, not
26 otherwise described in this paragraph, shall be excluded from
27 the numerator and the denominator of the sales factor.

28 * * *

29 (19) For purposes of this subclause relating to division of
30 income, gross receipts received from the sale of an interest in

1 a partnership, joint venture, association or other
2 unincorporated enterprise shall be considered a sale of the
3 assets of the partnership, joint venture, association or other
4 unincorporated enterprise and shall be sourced based on
5 subparagraphs (16), (16.1) and (17) by the type of asset of the
6 partnership, joint venture, association or other unincorporated
7 enterprise.

8 * * *

9 (9) "Interest expense or cost." A deduction allowed under
10 section 163 of the Internal Revenue Code of 1986 (26 U.S.C. §
11 163) [to the extent that such deduction is directly related to
12 an intangible expense or cost].

13 * * *

14 (11) "Management fees." Expenses and costs paid for
15 services pertaining to accounts receivable and payable, employe
16 benefit plans, insurance, legal, payroll, data processing,
17 purchasing, tax, financial and securities, accounting, research,
18 management, reporting and compliance services or similar
19 services, only to the extent the amounts of the expenses and
20 costs are allowed as a deduction or cost in determining taxable
21 income.

22 Section 2. Section 402 of the act is amended to read:

23 Section 402. Imposition of Tax.--(a) A corporation shall be
24 subject to and shall pay an excise tax for exercising, whether
25 in its own name or through any person, association, business
26 trust, corporation, joint venture, limited liability company,
27 limited partnership, partnership or other entity, any of the
28 following privileges:

29 (1) Doing business in this Commonwealth.

30 (2) Carrying on activities in this Commonwealth, including

1 solicitation which is not protected activity under the act of
2 September 14, 1959 (Public Law 86-272, 15 U.S.C. § 381 et seq.).

3 (3) Having capital or property employed or used in this
4 Commonwealth.

5 (4) Owning property in this Commonwealth.

6 (5) (A) Having substantial nexus in this Commonwealth.

7 Substantial nexus in this Commonwealth means a direct or
8 indirect business activity that is sufficient to grant the
9 Commonwealth authority under the Constitution of the United
10 States to impose tax under this article and for which a basis
11 exists under section 401 to apportion or allocate the
12 corporation's income to this Commonwealth.

13 (B) For purposes of this section, business activity,
14 including, but not limited to:

15 (i) the leasing or licensing of intangible property that is
16 utilized in this Commonwealth;

17 (ii) regularly engaging in transactions with customers in
18 this Commonwealth involving intangible property, including
19 loans; or

20 (iii) sales of intangible property that was utilized by the
21 corporation within this Commonwealth.

22 (C) There shall be a rebuttable presumption that a
23 corporation with \$500,000 or more of sales sourced to this
24 Commonwealth under section 401 has substantial nexus in this
25 Commonwealth without regard to physical presence in this
26 Commonwealth.

27 (b) The annual rate of tax on corporate net income imposed
28 by subsection (a) for taxable years beginning for the calendar
29 year or fiscal year on or after the dates set forth shall be as
30 follows:

1 Taxable Year Tax Rate

2 January 1, 1995[, and

3 each taxable year

4 thereafter] through

5 December 31, 2022 9.99%

6 January 1, 2023,

7 through December 31,

8 2025 7.99%

9 January 1, 2026,

10 through December 31,

11 2026 6.99%

12 January 1, 2027, and

13 each taxable year

14 there 5.99%

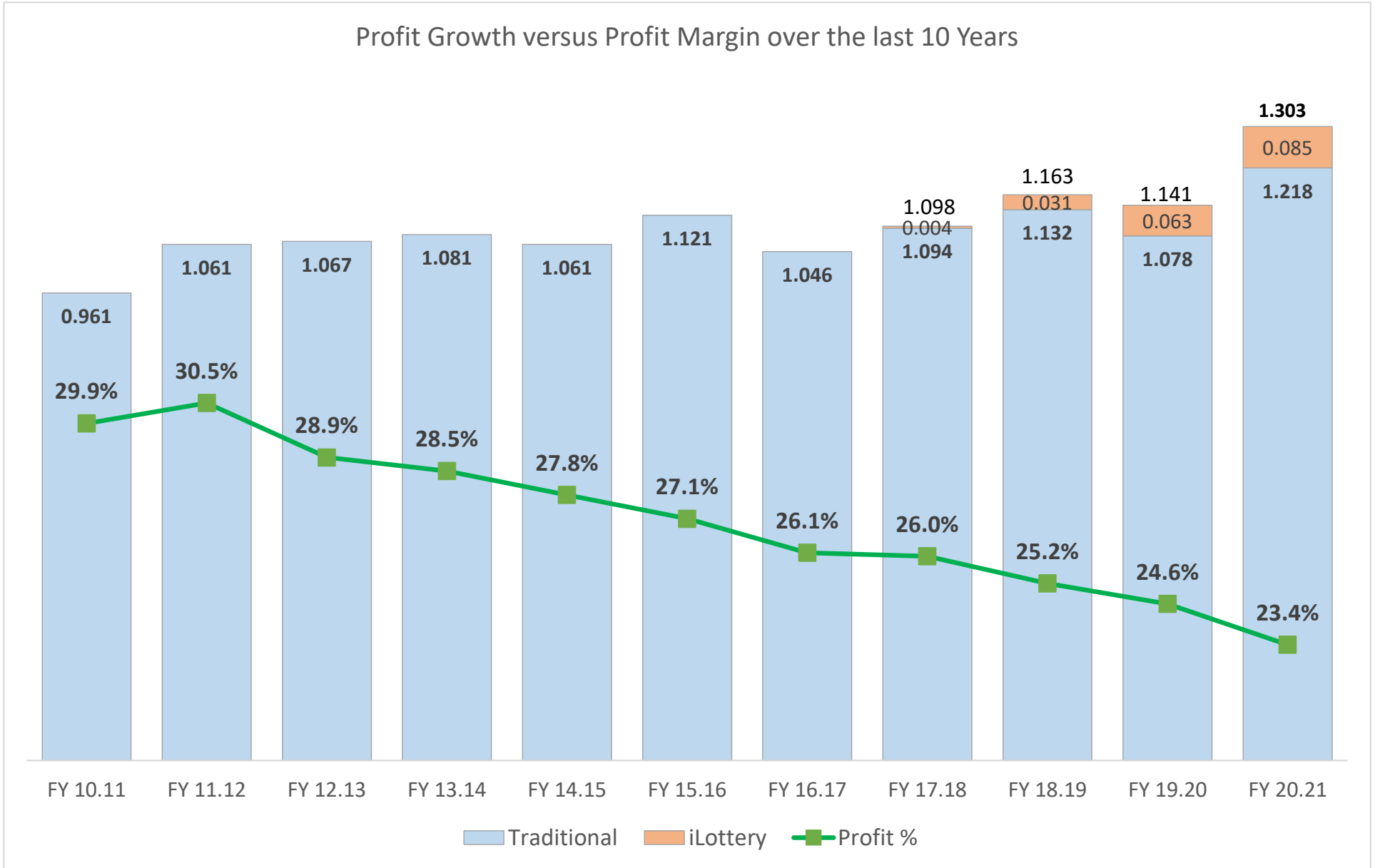
15 (c) An entity subject to taxation under Article VII, VIII,
16 IX or XV shall not be subject to the tax imposed by this
17 article.

18 Section 3. This act shall apply as follows:

19 (1) The amendment of section 402(a) of the act shall
20 apply to taxable years beginning after December 31, 2019.

21 (2) The remainder of this act shall apply to taxable
22 years beginning after December 31, 2022.

23 Section 4. This act shall take effect immediately.





Benefits Older Pennsylvanians. Every Day.

Profit Margin Percentage Mandate

FY 2008/09



60.0 cents
Winner Prizes

30.4 cents
Benefit Programs

7.2 cents
Retailer & Vendor Commissions

2.4 cents
Operating Expenses

VS.

FY 2020/21



66.8 cents
Winner Prizes

23.4 cents
Benefit Programs

8.0 cents
Retailer & Vendor Commissions

1.8 cents
Operating Expenses



Payouts increased over the past 12 years from 60.0% to 66.8%



High payout lottery games drive sales & profits, but higher payouts = lower profit margins



Keno and Monitor Sports games are higher payout/lower profit margin games



% to senior programs declined, BUT total dollars increased from \$910 million to \$1.30 billion



Growing consumer demand for higher payout games such as Scratch-Offs



Artificial profit percentage requirement constrains Lottery sales and profit growth



Operating expenses as a % of sales have remained consistent over the past 12 years



74% of lottery sales are from Scratch-Offs and Fast Play vs. 57% just 12 years ago



Goal is to maximize profit dollars for older Pennsylvanians

History of Pennsylvania Lottery Profit Mandate

1971

1971 - Act 91
PA Lottery created
with 30%
profit mandate

2008

2008 - Act 53
Profit mandate
lowered to 27%
through FY 2010/11

2011

2011 - Act 23
Extended 27%
mandate through
FY 2014/15

2014

2014 - Act 201
Profit mandate
lowered
to 25%

2017

2017 - Act 42
iLottery excluded
from profit mandate &
Keno/Monitor Games
authorized

2019







2019 - Act 97
Profit mandate
lowered to
20% through
June 30, 2024

State lotteries with the highest profit per capita in absolute dollars are among the states with the lowest percentage return rates.

- Source: October 2015 NASPL Study

Pennsylvania Ranks 6th in Net Income -

*None of the States Ranked Above Pennsylvania
Have Mandated Profit Percentage Requirements*

		Profit % Mandate?
	1. New York	NO
	2. Florida	NO
	3. California	NO
	4. Texas	NO
	5. Georgia	NO
	6. Pennsylvania	YES

PA is one of only 7 states that still have a profit percentage requirement: Delaware, Louisiana, New Jersey, New Mexico, Rhode Island and Tennessee.

Legislative Request: Eliminate profit margin percentage mandate.

Reason: Maximize profit dollars returned to Older Pennsylvanians.

Risks of Inaction:

Lottery falls below 20% mandate

Lottery reduces Scratch-Offs (higher payout/ lower profit margin games) to stay above 20% mandate

Lottery constrains game payouts which causes sales & profits to decline